

**B.A., LL.B. (Hons.) DEGREE NINTH SEMESTER EXAMINATION,
NOVEMBER 2019**

Time: 3 Hours

Maximum Marks: 50

HUMANITARIAN AND REFUGEE LAW

Time: 3 hours

Maximum Marks: 50

I. Answer ANY FOUR of the following. Each question carries FOUR MARKS

- 1) Combatant
- 2) International armed conflict
- 3) Lieber Code
- 4) Principle of proportionality
- 5) Internally displaced persons
- 6) Cessation of refugee status

II. Answer ANY TWO of the following; each question carries SEVEN MARKS

1. During the reconquest of an enemy – occupied territory, the commander of a military unit asks the chief physician of the hospital in a small town to take in wounded from his unit who cannot be moved. The chief physician replies that his hospital is already completely full of enemy soldiers and that they too are not in a condition to be moved. The commander replies: “Your enemy wounded are now my prisoners of war. I therefore order you to evacuate them and make room for our own soldiers.” The chief physician refuses to evacuate seriously wounded persons even if they are enemy soldiers. The soldiers accompanying the officer resent this answer and draw their weapons. The chief physician thereupon makes his answer plain by standing in the doorway of the hospital to bar entry to it. You are the legal adviser to the unit commander.

Are you going to agree to the use of force?

2. During an armed conflict between two States party to the Geneva Conventions, an ICRC delegate is summoned to the Ministry of Foreign Affairs of one of the belligerents, who informs him as follows:

“We have been informed that our enemies are executing our parachutists when they capture them. This is contrary to the Geneva Conventions protecting uniformed combatants.”

“Consequently, for each one of our parachutists executed by the enemy we shall execute ten prisoners of war as a reprisal.”

- i. What should the delegate do?
- ii. How should the situation be assessed in the light of the Geneva Conventions of 1949 and Protocol I?
- iii. What about an enquiry procedure?

3. Two applicants were seeking to resist their transfer under the Dublin Convention to Germany and France respectively in 1998, at a time before the Qualification Directive was in force. The first was a Somali national who feared a rival clan and whose asylum claim had been refused in Germany because the 1951 Refugee Convention was interpreted not to provide protection when, as in Somalia, the governmental authority had collapsed and there was no State to which the persecution could be attributed. The second applicant was an Algerian national who was resisting removal to France because he feared the Groupe Islamique Armé (GIA). The GIA was a non-state agent of persecution that the Algerian State was unable to provide protection against. The Secretary of State accepted that there was a substantial risk that French authorities would refuse the asylum claim because there was no state toleration or encouragement of the threats by the GIA, and therefore no persecution attributable to the Algerian state. The Secretary sought to remove them from the UK, after certifying that France and Germany were safe third countries. Consequently, the applicants therefore were only entitled to a make a non – suspensive appeal of the decision. They therefore applied for Judicial Review of the decision to certify their claims.

Would the Court allow these appeals and quash the decisions of the Secretary of State that France and Germany were safe third countries for the applicants?

III. Answer **ANY TWO** of the following; Each question carries **TEN MARKS**

1. Outline the protection of cultural property and natural environment under International Humanitarian Law (IHL).
2. Discuss Common Article 3 and Additional Protocol II to the Geneva Conventions of 1949.
3. Elucidate the origin and development of International Refugee Principle.